

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

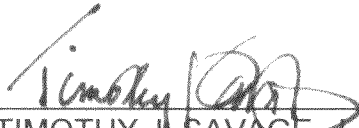
FILED APR 01 2009

BENJAMIN SMITH : CIVIL ACTION
:
v. : NO. 08-0050
:
FRANKLIN TENNIS, *et al.* :

ORDER

AND NOW, this 1st day of April, 2009, upon consideration of the Petition for Writ of Habeas Corpus (Document No. 1), the Respondents' Answer to Petition for Writ of Habeas Corpus (Document No. 13), the Report and Recommendation filed by United States Magistrate Judge L. Felipe Restrepo and no objections to the Report and Recommendation having been filed, and after a thorough and independent review of the record, it is **ORDERED** that:

1. The Report and Recommendation of Magistrate Judge Restrepo is **APPROVED** and **ADOPTED**;
2. The Petition for Writ of Habeas Corpus is **DISMISSED WITHOUT PREJUDICE**; and,
3. There is no probable cause to issue a certificate of appealability.


TIMOTHY J. SAVAGE, J.

ENTERED

APR 01 2009

CLERK OF COURT